

AMENDED IN SENATE MARCH 1, 2016

**SENATE BILL**

**No. 868**

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**Introduced by Senator Jackson**

January 12, 2016

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An act to amend Section 21012 of, and to add Part 1.5 (commencing with Section 21750) to Division 9 of, the Public Utilities Code, relating to aviation.

LEGISLATIVE COUNSEL'S DIGEST

SB 868, as amended, Jackson. State Remote Piloted Aircraft Act.

Existing federal law, the Federal Aviation Administration Modernization and Reform Act of 2012, provides for the integration of civil unmanned aircraft systems, commonly known as drones, into the National Airspace System. Existing federal law generally requires an aircraft to be registered with the Federal Aviation Administration (FAA), prohibits a person from operating a United States registered aircraft unless that aircraft displays specified nationality and registration marks, and, unless authorized by the FAA, prohibits a person from placing on any aircraft a design, mark, or symbol that modifies or confuses those nationality and registration marks.

The State Aeronautics Act governs various matters relative to aviation in the state, including, among other things, fostering and promoting safety in aeronautics and establishing only those regulations that are essential and clearly within the scope of the authority granted to the Department of Transportation by the Legislature, in order that persons may engage in every phase of aeronautics with the least possible restriction consistent with the safety and the rights of others. A violation of the act is a crime punishable by a fine of not more than \$1,000 or by imprisonment of not more than 6 months, or both.

*Existing law establishes the Office of Emergency Services in the office of the Governor and makes the office responsible for the state's emergency and disaster response services for natural, technological, or manmade disasters and emergencies.*

This bill would enact the State Remote Piloted Aircraft Act. The bill would establish conditions for operating remote piloted aircraft, including the procurement of liability insurance. The bill would authorize the department to adopt reasonable rules and regulations governing the conditions under which remote piloted aircraft may be operated for the purpose of protecting and ensuring the general public interest and safety and the safety of persons operating remote piloted aircraft. *The bill would authorize the Office of Emergency Services to adopt reasonable rules and regulations and to make and amend general or special rules, orders, and procedures with respect to operating a remote piloted aircraft in certain circumstances, including operating a remote piloted aircraft within 500 feet of critical infrastructure.*

The bill would authorize the department to make and amend general or special rules, orders, and procedures, and establish minimum standards consistent with the act as it deems necessary, to assist political subdivisions and their law enforcement agencies, and to enter into any contracts necessary to the execution of its powers pursuant to the act, as specified. The bill would provide that a person or entity injured or aggrieved by any procedure or action of the department with respect to remote piloted aeronautics may appeal to the California Transportation Commission for relief, as specified. *The bill would provide that remedies provided by the act are cumulative with any other remedies available under law.* The bill would provide that the provisions of the act are severable. The bill would make a violation of the act or any rule or order issued pursuant to the act punishable in the same manner as a violation of the State Aeronautics Act, *except as provided*, which would make violations subject to criminal penalties.

Because the bill would create new crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 21012 of the Public Utilities Code is amended to read:

21012. "Aircraft" means any manned contrivance used or designed for navigation of, or flight in, the air requiring certification and registration as prescribed by federal statute or regulation. Notwithstanding the foregoing provisions of this section, manned lighter-than-air balloons and ultralight vehicles as defined in the regulations of the Federal Aviation Administration (14 C.F.R. Part 103), whether or not certificated by the Federal Aviation Administration, shall not be considered to be aircraft for purposes of this part. "Aircraft" does not include remote piloted aircraft, as defined in Section 21753.

SEC. 2. Part 1.5 (commencing with Section 21750) is added to Division 9 of the Public Utilities Code, to read:

PART 1.5. STATE REMOTE PILOTED AIRCRAFT ACT

21750. This part may be cited as the "State Remote Piloted Aircraft Act."

21751. The purpose of this part is to further and protect the public interest in remote piloted aircraft by all of the following means:

(a) Encouraging the development and general use of remote piloted aircraft.

(b) Fostering and promoting safety in remote piloted aeronautics.

(c) Preserving the fundamental right to privacy.

(d) Protecting the security of critical infrastructure.

(e) *Protecting California's natural resources.*

(f) *Encouraging the use of remote piloted aircraft for newsgathering in a manner consistent with the fundamental right to privacy.*

~~(e)~~

(g) Granting to a state agency powers, and imposing upon it duties, so that the state may properly perform its functions relative to remote piloted aeronautics and effectively exercise its jurisdiction over persons and property.

~~(f)~~

1 (h) Effecting, where feasible and consistent with the policies of  
2 this state, uniformity with federal aeronautics laws and regulations.

3 ~~(g)~~

4 (i) Establishing only those regulations that are essential and  
5 clearly within the scope of the authority granted by the Legislature,  
6 in order that persons may engage in every phase of remote piloted  
7 aeronautics with the least possible restriction consistent with the  
8 safety and the rights of others.

9 21752. (a) Unless the context otherwise requires, the  
10 definitions and general provisions set forth in this part govern the  
11 construction of this part.

12 (b) This part shall not be construed as limiting any power of the  
13 state or a political subdivision to regulate the operation of remote  
14 piloted aircraft if the regulations do not conflict with the provisions  
15 of this part.

16 (c) Except as specified, this part shall not be construed as  
17 prohibiting, restricting, or permitting the prohibition of the take-off,  
18 operation, or landing of remote piloted aircraft.

19 21753. (a) "Aircraft" means any contrivance used or designed  
20 for navigation of, or flight in, the air.

21 (b) "Airport" means any area of land or water that is used, or  
22 intended for use, for the landing and take-off of aircraft, and any  
23 appurtenant areas that are used, or intended for use, for airport  
24 buildings or other airport facilities or rights-of-way, and all airport  
25 buildings and facilities located thereon.

26 (c) "Critical infrastructure" means systems and assets so vital  
27 to the state that the incapacity or destruction of those systems or  
28 assets would have a debilitating impact on security, economic  
29 security, public health and safety, or any combination of those  
30 matters.

31 (d) "Department" means the Department of Transportation.

32 (e) "Heliport" means any area of land, water, or structure used,  
33 or intended for use, for the landing and take-off of helicopters, and  
34 any appurtenant areas that are used, or intended for use, for heliport  
35 buildings or other heliport facilities or rights-of-way, and all  
36 heliport buildings and facilities located thereon.

37 (f) "Operation of remote piloted aircraft" or "operate remote  
38 piloted aircraft" means the use, navigation, or piloting of remote  
39 piloted aircraft in the airspace over the land or waters of this state.

1 (g) “Person” means any individual, firm, partnership,  
2 corporation, limited liability company, company, association, joint  
3 stock association, or body politic; and includes any trustee,  
4 receiver, assignee, or other similar representative.

5 (h) “Pilot” means the person in command of a remote piloted  
6 aircraft while underway.

7 (i) “Political subdivision” means any county, city, city and  
8 county, public corporation, district, or other political entity or  
9 public corporation of this state.

10 (j) “Remote piloted aircraft” means an aircraft that is operated  
11 without the possibility of direct human intervention from within  
12 or on the aircraft.

13 (k) “Remote piloted aircraft system” means a remote piloted  
14 aircraft and its associated elements, including communication  
15 links, that are required for the pilot to control the remote piloted  
16 aircraft.

17 21754. A person shall not operate a remote piloted aircraft in  
18 any of the following circumstances:

19 (a) Within 500 feet of critical infrastructure designated by the  
20 ~~department~~ *Office of Emergency Services* without first obtaining  
21 the consent of the owner or operator of the critical infrastructure.

22 (b) Within 1,000 feet of a heliport without first obtaining the  
23 consent of the owner or operator of the heliport, or without first  
24 obtaining a waiver, exemption, or other authorization for its  
25 operation from the Federal Aviation Administration.

26 (c) Within five miles of an airport without first obtaining the  
27 consent of the owner or operator of the airport, or without first  
28 obtaining a waiver, exemption, or other authorization for its  
29 operation from the Federal Aviation Administration.

30 ~~(d) Within the immediate reaches of the enveloping atmosphere~~  
31 ~~of private property without first obtaining the consent of the owner~~  
32 ~~or lawful occupant of the property.~~

33 *(d) Within any other area where the department or the Office*  
34 *of Emergency Services, through reasonable rule or regulation,*  
35 *determines that unrestricted use of remote piloted aircraft presents*  
36 *an imminent danger to public health and safety.*

37 21755. A person shall not operate a remote piloted aircraft in  
38 any of the following circumstances:

39 (a) Within the airspace overlaying units of the state park system,  
40 unless the operator of the remote piloted aircraft has obtained a

1 permit authorizing the use of that aircraft *in that airspace* or the  
2 unit of the state park system over which the remote piloted aircraft  
3 is used has, by rule or regulation, authorized the launching, landing,  
4 or operation of remote piloted aircraft.

5 (b) Within the airspace overlaying lands or waters managed by  
6 the Department of Fish and Wildlife, unless the operator of the  
7 remote piloted aircraft has obtained a permit authorizing the use  
8 of that aircraft *in that airspace* or the Department of Fish and  
9 Wildlife has, by rule or regulation, authorized the launching,  
10 landing, or operation of remote piloted aircraft over those lands  
11 or waters.

12 (c) Within 500 feet of the State Capitol or other building housing  
13 the state legislative offices and chambers, situated in the area  
14 bounded by 10th, L, 15th, and N Streets in the City of Sacramento,  
15 unless the operator of the remote piloted aircraft has obtained a  
16 permit authorizing the use of that aircraft within 500 feet of the  
17 building or the Department of the California Highway Patrol has,  
18 by rule or regulation, authorized the launching, landing, or  
19 operation of remote piloted aircraft within 500 feet of the building.

20 ~~(d) Within any other area that the department, through~~  
21 ~~reasonable regulation, determines that unrestricted use of remote~~  
22 ~~piloted aircraft presents an imminent danger to public health and~~  
23 ~~safety.~~

24 21756. Notwithstanding Sections 21754 and 21755, a person  
25 may operate a remote piloted aircraft in any of the following  
26 circumstances:

27 (a) In any airspace designated for the taking off or landing of  
28 aircraft at an airport or heliport when the operator of the remote  
29 piloted aircraft is both authorized to and engaged in taking off  
30 from or landing at that airport or heliport.

31 (b) Upon or above any property ~~for~~ to which the operator of the  
32 remote piloted aircraft has a right ~~to enter~~. *of entry, including a*  
33 *remote piloted aircraft operated under the direction of a duly*  
34 *authorized representative of a news service, newspaper, or radio*  
35 *or television station or network in a closed area pursuant to*  
36 *subdivision (d) of Section 409.5 of the Penal Code.*

37 (c) *Upon or above any property for which the operator of the*  
38 *remote piloted aircraft has received a permit from the California*  
39 *Film Commission pursuant to the Motion Picture, Television, and*  
40 *Commercial Industries Act of 1984 (Chapter 1 (commencing with*

1 *Section 14998) of Part 5.7 of Division 3 of Title 2 of the*  
2 *Government Code), provided the operator adheres to all terms*  
3 *and conditions specified in the permit.*

4 ~~(e)~~

5 *(d) In any location or airspace deemed necessary by the operator*  
6 *of the remote piloted aircraft to avoid imminent danger to the life*  
7 *and safety of another person or to the public at large.*

8 21757. A person shall not weaponize a remote piloted aircraft  
9 or operate a weaponized remote piloted aircraft.

10 21758. (a) A person shall not operate a remote piloted aircraft  
11 in any of the following manners:

12 (1) In a manner that interferes with manned aircraft.

13 (2) In a manner that is prohibited by any federal statute or  
14 regulation governing aeronautics.

15 (3) In a careless or reckless manner so as to endanger the life  
16 or property of another.

17 *(4) In a manner that substantially and unreasonably interferes*  
18 *with the comfortable enjoyment of private property.*

19 *(5) In a manner that violates an individual's fundamental right*  
20 *to privacy.*

21 *(6) Within the immediate reaches of the enveloping atmosphere*  
22 *of private property without first obtaining the consent of the owner*  
23 *or lawful occupant of the property.*

24 (b) A remotely piloted aircraft shall always give way to manned  
25 aircraft.

26 21759. A person shall not operate a remote piloted aircraft in  
27 this state without first complying with all licensing, registration,  
28 and marking requirements required by the Federal Aviation  
29 Administration.

30 21760. (a) Every commercial operator of a remote piloted  
31 aircraft shall procure, and continue in effect so long as the  
32 commercial operator continues to offer services for compensation,  
33 adequate protection against liability imposed by law upon operators  
34 of remote piloted aircraft.

35 (b) Any person using, operating, or renting a remote piloted  
36 aircraft with the permission, expressed or implied, of a commercial  
37 operator shall also procure adequate protection against liability  
38 imposed by law for the payment of damages for personal bodily  
39 injuries, including death resulting therefrom, and property damage  
40 as a result of an accident involving the remote piloted aircraft.

1 (c) The department shall, after a public hearing, establish the  
2 amount of liability insurance, required by this section, that is  
3 reasonably necessary to provide adequate compensation for  
4 damages incurred through an accident involving a commercial  
5 operator of a remote piloted aircraft.

6 21761. (a) Consistent with the provisions of this part, the  
7 department may adopt reasonable rules and regulations governing  
8 the conditions under which remote piloted aircraft may be operated  
9 for the purpose of protecting and ensuring the general public  
10 interest and safety and the safety of persons operating remote  
11 piloted aircraft.

12 (b) The department may make and amend general or special  
13 rules, orders, and procedures, and establish minimum standards  
14 consistent with this part as it deems necessary to administer this  
15 part.

16 (c) In exercising authority under this part, the department shall  
17 cooperate with and assist the federal government, political  
18 subdivisions of this state, and others in the development of remote  
19 piloted aeronautics, and shall seek to coordinate activities whenever  
20 feasible.

21 (d) The department shall keep on file with the Secretary of State,  
22 and at its principal office, a copy of all its rules and regulations,  
23 adopted pursuant to this part, for public inspection.

24 (e) The department shall provide for the publication and general  
25 distribution of all its orders, rules, regulations, and procedures  
26 having general effect that are applicable to remote piloted aircraft.

27 21762. (a) *The Office of Emergency Services may adopt*  
28 *reasonable rules and regulations, and may make and amend*  
29 *general or special rules, orders, and procedures, as it deems*  
30 *necessary to administer subdivisions (a) and (d) of Section 21754.*

31 (b) *In exercising authority under this part, the Office of*  
32 *Emergency Services shall coordinate activities with the federal*  
33 *government and political subdivisions of this state whenever*  
34 *feasible.*

35 (c) *The Office of Emergency Services shall keep on file with the*  
36 *Secretary of State, and at its principal office, a copy of all its rules*  
37 *and regulations, adopted pursuant to this part, for public*  
38 *inspection, and shall provide for the publication and general*  
39 *distribution of all its orders, rules, regulations, and procedures*  
40 *having general effect that are applicable to remote piloted aircraft.*



1     ~~21762.~~

2     21763. The department may do all of the following:

3     (a) Represent the state in remote piloted aeronautical matters  
4 before federal and other agencies.

5     (b) Participate as plaintiff or defendant or as intervenor on behalf  
6 of the state or any political subdivision or citizen in any controversy  
7 that involves the interest of the state in remote piloted aeronautics.

8     (c) Assist political subdivisions and their law enforcement  
9 agencies in becoming acquainted with and enforcing regulations  
10 promulgated under this part.

11     (d) Enter into any contracts necessary to the execution of its  
12 powers under this part. All contracts made by the department,  
13 either as the agent of the state or as the agent of any political  
14 subdivision, shall be made pursuant to the laws of the state  
15 governing the making of like contracts.

16     (e) Exercise any of its powers under this part in cooperation  
17 with any political subdivision, state agency, other states or their  
18 political subdivisions, or the United States.

19     (f) Enforce this part and rules and orders issued under this part  
20 in the name of the state by injunction or other legal process in the  
21 federal, state, and local courts of this state or pursuant to any  
22 federal, state, or local administrative hearing.

23     ~~21763.—A~~

24     21764. (a) *Except as provided in this section, a violation of*  
25 *any provision of this part or any rule or order issued pursuant to*  
26 *this part shall be punishable in the same manner provided for in*  
27 *the State Aeronautics Act (Part 1 (commencing with Section*  
28 *21001)).*

29     (b) *A violation of subdivision (a) of Section 21755 shall be*  
30 *punishable in the same manner provided for in Section 5008 of*  
31 *the Public Resources Code, and the Department of Parks and*  
32 *Recreation shall have exclusive jurisdiction to enforce this*  
33 *provision.*

34     (c) *A violation of subdivision (b) of Section 21755 shall be*  
35 *punishable in the same manner provided for in Section 12000 of*  
36 *the Fish and Game Code, and the Department of Fish and Wildlife*  
37 *shall have exclusive jurisdiction to enforce this provision.*

38     (d) *A violation of subdivision (c) of Section 21755 shall be*  
39 *punishable in the same manner provided for in Section 14685 of*  
40 *the Government Code, and the Department of the California*

1 *Highway Patrol shall have exclusive jurisdiction to enforce this*  
2 *provision.*

3 ~~21764.~~

4 21765. A person or entity injured or aggrieved by any  
5 procedure or action of the department with respect to remote piloted  
6 aeronautics may appeal to the California Transportation  
7 Commission for relief, and the decision of the commission as to  
8 that matter shall, after an evidentiary hearing, be conclusive, and  
9 subject to review pursuant to Chapter 4.5 (commencing with  
10 Section 11400) of Part 1 of Division 3 of Title 2 of the Government  
11 Code.

12 21766. *Nothing in this part shall be construed to impair or*  
13 *impede any other rights, causes of action, claims, or defenses*  
14 *available under other laws. The remedies provided in this part are*  
15 *cumulative with any other remedies available under other laws.*

16 ~~21765.~~

17 21767. The provisions of this part are severable. If any  
18 provision of this part or its application is held to be invalid, that  
19 invalidity shall not affect other provisions or applications that can  
20 be given effect without the invalid provision or application.

21 SEC. 3. No reimbursement is required by this act pursuant to  
22 Section 6 of Article XIII B of the California Constitution because  
23 the only costs that may be incurred by a local agency or school  
24 district will be incurred because this act creates a new crime or  
25 infraction, eliminates a crime or infraction, or changes the penalty  
26 for a crime or infraction, within the meaning of Section 17556 of  
27 the Government Code, or changes the definition of a crime within  
28 the meaning of Section 6 of Article XIII B of the California  
29 Constitution.